

REMARKS/ARGUMENTS

Claims 3-20 and 36 are pending. Claims 3-20 stand rejected under 35 U.S.C. §103 as unpatentable over Tozzoli (U.S. 5,717,989) in view of Martin (U.S. 7,047,219). Claim 38 stands withdrawn as allegedly directed to a non-elected invention. Applicants respectfully traverse these rejections and restriction.

Claim 6 is amended to correct a dependency error. This amendment is supported by the specification, drawings, and claims as originally filed; no new matter has been added.

Election/Restriction

The Office Action asserts that claim 38 is directed to a distinct invention from claim 36 because claim 38 is directed to "financing the seller." However, both claim 36 and claim 38 recite, in relevant part, "electronically **providing an opportunity for the seller to obtain financing** in relation to the one or more goods or services." The Office Action provides no indication of why "financing the seller" in claim 38 as identified by the Office Action is independent and distinct from the features recited in claim 36. Thus, the analysis presented in the Office Action fails to show that claim 36 is directed to an invention that is separate and distinct from the invention previously claimed.

Further, it is noted that many of the currently-pending claims, which remain in their original form, recite similar features. As an example, claim 3 recites, in relevant part, " means for **electronically providing an opportunity for the seller to obtain financing** in relation to the one or more goods or services." Thus, the mere fact that claim 38 is directed to "financing the seller" as stated by the Office Action is insufficient to support the restriction as presented.

Applicants respectfully request that the restriction/election be withdrawn, and claim 38 be rejoined and examined on the merits.

35 U.S.C. §103 Rejections

To support a *prima facie* case of obviousness, the Examiner must demonstrate that each feature recited in the claims is found in the cited art, or provide explicit reasoning to support the finding that the features would be obvious to one of skill in the art at the time the invention was

made. *See* M.P.E.P. §§ 2141, 2142. The Office Action asserts that each of the features recited in the claims are found in one of the cited references. As described in further detail below, Applicants respectfully disagree.

Claims 3, 36, and 38

Independent claim 3 recites, in relevant part,

means for electronically **providing an opportunity for the seller to obtain financing** in relation to the one or more goods or services;

Independent claims 36 and 38 recite similar features. The Office Action admits that Tozzoli fails to disclose such a feature, but asserts that it is disclosed by Martin at Figures 1-2, column 1, lines 1-15 and 55-67, column 2, line 59 to column 3, line 3, and column 7, lines 15045. Applicants respectfully disagree.

Martin describes a system for tracking credit limits and accounts receivable. In some cases, Martin's system recognizes that underwriters or financial institutions may provide credit insurance and/or commit to purchase accounts receivable of certain buyers. *See* col. 2:59-3:2. Notably, the manufacturer is described as shipping products or services to buyers subsequent to receiving such a commitment letter from a financial institution. Col. 3:2-7.

The commitment letter described in Martin is not properly interpreted as providing financing to the seller. For example, the commitment letter does not result in the seller receiving funds that it would not otherwise have in exchange for collateral, and does not result in the seller owing a debt to the financing institution. Thus, the commitment letter described by Martin is similar to the Letters of Credit described by Tozzoli, the deficiencies of which with respect to the claims have been previously described. *See* Amendment filed January 3, 2008, p. 11-12.

The specific portions of Martin identified in the Office Action merely describe this type of commitment letter or the basic operation of Martin's system. Specifically, Figure 1 merely shows various parties that can use Martin's system to track accounts receivable. Figure 2 shows further details of the accounts receivable system, but does not show financing provided to a seller. Column 1, lines 1-15 merely describes general finance systems. Column 1, lines 55-67 refers generally to financing, but with respect to checking *buyers'* credit limits. Column 2:59 to

3:3 describes commitment letters as discussed above. Finally, column 7, lines 15-45 merely describes various screens used by Martin's software system. None of the cited figures or passages describes or suggest electronically providing an opportunity for the seller to obtain financing, nor is this feature described anywhere else in Martin.

For at least this reason, the cited references fail to describe or suggest each and every feature recited in the independent claims. The dependent claims are allowable for at least the same reason as the independent claims. Withdrawal of the rejections and reconsideration is respectfully requested.

Claims 4-6

Solely to advance prosecution of the present application, several dependent claims are discussed in further detail below. However, the omission of a dependent claim or feature from this discussion is not an indication of agreement with the Office Action's analysis.

Claim 4 recites, in relevant part, financing **to be utilized by the seller in producing one or more goods or services** in accordance with the purchase order agreement. The Office Action asserts that this feature is disclosed by Tozzoli at claim 12. Applicants respectfully disagree. Tozzoli's claim 12 merely describes comparing response data to a funder's pre-set criteria to determine if the funder will finance the *transaction*. As described by Tozzoli, the funder typically guarantees payment for transactions processed by the trade system. *See, e.g.*, col. 5, lines 35-45. There is no suggestion in claim 12, or anywhere else in Tozzoli, that in funding the transaction the funder provides an opportunity for the seller to obtain financing to produce one or more goods or services as recited in claim 4. As previously described, a guarantee of payment is not an opportunity to obtain **financing**.

Further, this guarantee of payment is not a loan provided to the seller by a lender or financial institution as recited in claims 5-6. The funder's guarantee of payment within the trade system merely assures the parties that each will receive payment due. It does not create any sort of obligation to repay. Thus, the payment guarantee described in Tozzoli is not properly interpreted as a loan as recited in claims 5-6.

For at least these reasons, the cited art fails to disclose each feature recited in claims 4-6, and the claims are allowable over the cited art.

It is also noted that the Office Action admits that Tozzoli *fails* to disclose providing an opportunity for the seller to obtain financing. The assertions that Tozzoli discloses details of such financing as recited in the dependent claims is inconsistent with the Office Action's analysis of the independent claims. Therefore, the Office Action fails to provide reasoning sufficient to support a *prima facie* case of obviousness. Withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 202-481-9900.

The Commissioner is authorized to charge any fees due or credit any overpayment to the deposit account of Townsend and Townsend and Crew LLP, Deposit Account No. 20-1430.

Respectfully submitted,

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